

AMENDED IN ASSEMBLY MAY 5, 2015

AMENDED IN ASSEMBLY APRIL 21, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1239

Introduced by Assembly Members Gordon and Atkins

February 27, 2015

An act to amend Section 42885 of, and to repeal and add Section 42872.1 of, the Public Resources Code, relating to tire recycling.

LEGISLATIVE COUNSEL'S DIGEST

AB 1239, as amended, Gordon. Tire recycling: California tire regulatory fee and waste tire program.

(1) The California Tire Recycling Act requires, until January 1, 2024, a person who purchases a new tire to pay a California tire fee of \$1.75 per tire, for deposit in the California Tire Recycling Management Fund, for expenditure by the Department of Resources Recycling and Recovery upon appropriation by the Legislature, to fund the waste tire program and for other purposes, including to pay for the costs associated with a waste tire and used tire hauler program and manifest system, as provided. After January 1, 2024, existing law reduces the tire fee to \$0.75 per tire.

Existing law requires any person generating waste tires or used tires that are transported or submitted for transportation, for offsite handling, altering, storage, disposal, or for any combination thereof, to complete a California Uniform Waste and Used Tire Manifest, as required by the department. Existing law requires a generator to provide the manifest to the waste and used tire hauler at the time of transfer of the tires, and

to submit to the department, on a quarterly schedule, a legible copy of each manifest.

This bill would require a waste tire generator, as defined, *that is a retail seller of new tires to end user purchasers* to pay a California tire regulatory fee according to a schedule of amounts to be determined by the department. ~~For a waste tire generator that is a retail seller of new tires to end user purchasers, the fee.~~ The bill would authorize the department to establish the California tire regulatory fee in an amount that is sufficient to generate revenues equivalent to the reasonable regulatory costs incurred by the department incident to audits, inspections, administrative costs, adjudications, manifesting, registration, and other regulatory activities regarding these *retail sellers as generators of waste tire generators tires*, but not to exceed \$1.25 per new tire sold, as provided. ~~For waste tire generators that are not retail sellers, the bill would authorize the department to establish the amount of the California tire regulatory fee in a amount that is sufficient to generate revenues equivalent to the reasonable regulatory costs incurred by the department incident to audits, inspections, administrative costs, adjudications, manifesting, registration, and other regulatory activities regarding those waste tire generators; The bill would authorize the department to differentiate in setting the fees between the waste tire generators who are retail sellers depending upon the nature of the activity generating waste tires, the number of waste tires generated, and other appropriate bases. The bill would prohibit the aggregate amount of California tire regulatory fees imposed to exceed the aggregate reasonable regulatory costs incurred by the department incident to audits, inspections, administrative costs, adjudications, manifesting, registration, and other regulatory costs for regulating waste tire generators.~~

(2) Existing law establishes, as a part of the waste tire program, the tire recycling program, which promotes and develops alternatives to the landfill disposal of used whole tires. The program provides for grants to certain entities involved in activities that result in reduced landfill disposal of whole used tires, and development and implementation of a waste tire incentive payment program to promote increased demand of *for* waste tires recycled in this state. Under the act, until June 30, 2019, the Rubberized Pavement Market Development Act provides for the award of grants to certain public agency projects that use rubberized asphalt concrete.

This bill would repeal the Rubberized Pavement Market Development Act and instead enact the Tire Recycling Incentive Program Act. The

bill would require the department, in accordance with the tire recycling program, to establish this incentive program to award payments to eligible recipients, as specified. The bill would require the department to award these payments in the amount of \$2 for every 12 pounds of crumb rubber used by the eligible recipient, but would authorize the department to adjust this rate if it finds that the adjusted amount would further the purposes of the tire recycling act. The bill would require the department, while the existing tire fee remains greater than or equal to \$1.75 per tire, to annually allocate, of the amount appropriated to the department for purposes of the waste tire program, \$30,000,000 for the tire recycling incentive program.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 42872.1 of the Public Resources Code
2 is repealed.
3 SEC. 2. Section 42872.1 is added to the Public Resources Code,
4 to read:
5 42872.1. (a) This section shall be known, and may be cited,
6 as the Tire Recycling Incentive Program Act.
7 (b) In accordance with the tire recycling program authorized by
8 Section 42872, the department shall establish a tire recycling
9 incentive program that awards payments to eligible recipients, as
10 determined by the department, in the following manner:
11 (1) To cities, counties, other local governmental agencies, and
12 school districts for the funding of construction projects that use
13 recycled tires.
14 (2) To state and local governmental agencies, including regional
15 park districts, for the funding of disability access projects at parks
16 and Class I bikeways, as defined in subdivision (a) of Section
17 890.4 of the Streets and Highways Code, relative to projects that
18 use recycled tires.
19 (3) To a private manufacturer who produces a consumer product
20 using recycled tires in California.
21 (c) For purposes of subdivision (b), eligible recipients shall meet
22 specified criteria, as established by the department, that are
23 consistent with the provisions of this article.

(d) (1) Except as provided in paragraph (2), the department shall award the payments pursuant to subdivision (b) in the amount of two dollars (\$2) for every 12 pounds of crumb rubber used by the eligible recipient.

(2) The department may adjust the amount of payments awarded pursuant to paragraph (1) to an amount that is greater than, or less than, two dollars (\$2) for every 12 pounds of crumb rubber if the department finds this adjustment would further the purposes of this article.

(e) (1) Of the amount appropriated to the department in the annual Budget Act pursuant to subdivision (b) of Section 42889, the department shall annually allocate thirty million dollars (\$30,000,000) for the tire recycling incentive program established pursuant to subdivision (b).

(2) This subdivision shall become inoperative if the tire fee specified in subdivision (b) of Section 42885 becomes less than one dollar and seventy-five cents (\$1.75) per tire.

SEC. 3. Section 42885 of the Public Resources Code, as amended by Section 31 of Chapter 401 of the Statutes of 2013, is amended to read:

42885. (a) (1) For purposes of this section, “California tire fee” means the fee imposed pursuant to subdivision (b) of this section.

(2) For purposes of this section, a “California tire regulatory fee” means a fee imposed pursuant to subdivision (c) of this section.

(b) (1) A person who purchases a new tire, as defined in subdivision (h), shall pay a California tire fee of one dollar and seventy-five cents (\$1.75) per tire.

(2) The retail seller shall charge the retail purchaser the amount of the California tire fee as a charge that is separate from, and not included in, any other fee, charge, or other amount paid by the retail purchaser.

(3) The retail seller shall collect the California tire fee from the retail purchaser at the time of sale and may retain 1 ½ percent of the fee as reimbursement for any costs associated with the collection of the fee. The retail seller shall remit the remainder to the state on a quarterly schedule for deposit in the California Tire Recycling Management Fund, which is hereby created in the State Treasury.

1 (c) (1) A waste tire generator, as defined by Section 18450 of
2 Title 14 of the California Code of Regulations, ~~shall pay a~~
3 ~~California tire regulatory fee according to a schedule of amounts~~
4 ~~to be determined by the department pursuant to the following:~~

5 (A) ~~For a waste tire generator that is a retail seller of new tires~~
6 ~~to end user purchasers, the purchasers shall pay a California tire~~
7 ~~regulatory fee. The amount of the California tire regulatory fee~~
8 ~~shall be established by the department in an amount that is~~
9 ~~sufficient to generate revenues equivalent to the reasonable~~
10 ~~regulatory costs incurred by the department incident to audits,~~
11 ~~inspections, administrative costs, adjudications, manifesting,~~
12 ~~registration, and other regulatory activities regarding these retail~~
13 ~~sellers as generators of waste tire generators tires, but not to exceed~~
14 ~~one dollar and twenty-five cents (\$1.25) per new tire sold. The~~
15 ~~department may differentiate in setting fees between waste tire~~
16 ~~generators who are retail sellers of new tires who are waste tire~~
17 ~~generators depending upon the nature of the retail seller's activity~~
18 ~~generating waste tires, the number of waste tires generated, and~~
19 ~~other appropriate bases.~~

20 (B) ~~For a waste tire generator that is not a retail seller, the~~
21 ~~amount of the California tire regulatory fee shall be established~~
22 ~~by the department in an amount that is sufficient to generate~~
23 ~~revenues equivalent to the reasonable regulatory costs incurred by~~
24 ~~the department incident to audits, inspections, administrative costs,~~
25 ~~adjudications, manifesting, registration, and other regulatory~~
26 ~~activities regarding these waste tire generators. The department~~
27 ~~may differentiate between categories of waste tire generators that~~
28 ~~are not retail sellers in setting fees depending upon the nature of~~
29 ~~the activity generating waste tires, the number of waste tires~~
30 ~~generated, and other appropriate bases.~~

31 (C) ~~The aggregate amount of California waste tire fees imposed~~
32 ~~pursuant to subparagraphs (B) and (C) shall not exceed the~~
33 ~~aggregate reasonable regulatory costs incurred by the department~~
34 ~~incident to audits, inspections, administrative costs, adjudications,~~
35 ~~manifesting, registration, and other regulatory costs for regulating~~
36 ~~waste tire generators.~~

37 (2) A waste tire generator *that is a retail seller of new tires* shall
38 remit the *fees fee* assessed pursuant to this subdivision to the state
39 on a quarterly schedule for deposit in a separate account in the
40 California Tire Recycling Management Fund.

1 (d) The department, or its agent authorized pursuant to Section
2 42882, shall be reimbursed for its costs of collection, auditing, and
3 making refunds associated with the California Tire Recycling
4 Management Fund, but not to exceed 3 percent of the total annual
5 revenue deposited in the fund.

6 (e) The California tire fee imposed pursuant to subdivision (b)
7 shall be separately stated by the retail seller on the invoice given
8 to the customer at the time of sale. Any other disposal or
9 transaction fee charged by the retail seller related to the tire
10 purchase shall be identified separately from the California tire fee.

11 (f) A person or business who knowingly, or with reckless
12 disregard, makes a false statement or representation in a document
13 used to comply with this section is liable for a civil penalty for
14 each violation or, for continuing violations, for each day that the
15 violation continues. Liability under this section may be imposed
16 in a civil action and shall not exceed twenty-five thousand dollars
17 (\$25,000) for each violation.

18 (g) In addition to the civil penalty that may be imposed pursuant
19 to subdivision (f), the department may impose an administrative
20 penalty in an amount not to exceed five thousand dollars (\$5,000)
21 for each violation of a separate provision or, for continuing
22 violations, for each day that the violation continues, on a person
23 who intentionally or negligently violates a permit, rule, regulation,
24 standard, or requirement issued or adopted pursuant to this chapter.
25 The department shall adopt regulations that specify the amount of
26 the administrative penalty and the procedure for imposing an
27 administrative penalty pursuant to this subdivision.

28 (h) For purposes of this section, “new tire” means a pneumatic
29 or solid tire intended for use with onroad or off-road motor
30 vehicles, motorized equipment, construction equipment, or farm
31 equipment that is sold separately from the motorized equipment,
32 or a new tire sold with a new or used motor vehicle, as defined in
33 Section 42803.5, including the spare tire, construction equipment,
34 or farm equipment. “New tire” does not include retreaded, reused,
35 or recycled tires.

36 (i) The California tire fee shall not be imposed on a tire sold
37 with, or sold separately for use on, any of the following:

38 (1) A self-propelled wheelchair.

39 (2) A motorized tricycle or motorized quadricycle, as defined
40 in Section 407 of the Vehicle Code.

1 (3) A vehicle that is similar to a motorized tricycle or motorized
2 quadricycle and is designed to be operated by a person who, by
3 reason of the person's physical disability, is otherwise unable to
4 move about as a pedestrian.

5 (j) This section shall remain in effect only until January 1, 2024,
6 and as of that date is repealed, unless a later enacted statute, that
7 is enacted before January 1, 2024, deletes or extends that date.

8 SEC. 4. Section 42885 of the Public Resources Code, as
9 amended by Section 32 of Chapter 401 of the Statutes of 2013, is
10 amended to read:

11 42885. (a) (1) For purposes of this section, "California tire
12 fee" means the fee imposed pursuant to subdivision (b) of this
13 section.

14 (2) For purposes of this section, a "California tire regulatory
15 fee" means a fee imposed pursuant to subdivision (c) of this
16 section.

17 (b) (1) Every person who purchases a new tire, as defined in
18 subdivision (h), shall pay a California tire fee of seventy-five cents
19 (\$0.75) per tire.

20 (2) The retail seller shall charge the retail purchaser the amount
21 of the California tire fee as a charge that is separate from, and not
22 included in, any other fee, charge, or other amount paid by the
23 retail purchaser.

24 (3) The retail seller shall collect the California tire fee from the
25 retail purchaser at the time of sale and may retain 3 percent of the
26 fee as reimbursement for any costs associated with the collection
27 of the fee. The retail seller shall remit the remainder to the state
28 on a quarterly schedule for deposit in the California Tire Recycling
29 Management Fund, which is hereby created in the State Treasury.

30 (c) (1) A waste tire generator, as defined by Section 18450 of
31 Title 14 of the California Code of Regulations, ~~shall pay a~~
32 ~~California tire regulatory fee according to a schedule of amounts~~
33 ~~to be determined by the department pursuant to the following:~~

34 ~~(A) For a waste tire generator that is a retail seller of new tires~~
35 ~~to end user purchasers, the purchasers shall pay a California tire~~
36 ~~regulatory fee. The amount of the California tire regulatory fee~~
37 ~~shall be established by the department in an amount that is~~
38 ~~sufficient to generate revenues equivalent to the reasonable~~
39 ~~regulatory costs incurred by the department incident to audits,~~
40 ~~inspections, administrative costs, adjudications, manifesting,~~

1 registration, and other regulatory activities regarding these *retail*
2 *sellers as generators of waste tire generators tires*, but not to exceed
3 one dollar and twenty-five cents (\$1.25) per new tire sold. The
4 department may differentiate in setting fees between *waste tire*
5 *generators who are* retail sellers of new tires ~~who are waste tire~~
6 ~~generators~~ depending upon the nature of the retail seller's activity
7 generating waste tires, the number of waste tires generated, and
8 other appropriate bases.

9 ~~(B) For a waste tire generator that is not a retail seller, the~~
10 ~~amount of the California tire regulatory fee shall be established~~
11 ~~by the department in an amount that is sufficient to generate~~
12 ~~revenues equivalent to the reasonable regulatory costs incurred by~~
13 ~~the department incident to audits, inspections, administrative costs,~~
14 ~~adjudications, manifesting, registration, and other regulatory~~
15 ~~activities regarding these waste tire generators. The department~~
16 ~~may differentiate between categories of waste tire generators that~~
17 ~~are not retail sellers in setting fees depending upon the nature of~~
18 ~~the activity generating waste tires, the number of waste tires~~
19 ~~generated, and other appropriate bases.~~

20 ~~(C) The aggregate amount of California waste tire fees imposed~~
21 ~~pursuant to subparagraphs (B) and (C) shall not exceed the~~
22 ~~aggregate reasonable regulatory costs incurred by the department~~
23 ~~incident to audits, inspections, administrative costs, adjudications,~~
24 ~~manifesting, registration, and other regulatory costs for regulating~~
25 ~~waste tire generators.~~

26 (2) A waste tire generator *that is a retail seller* shall remit the
27 fees *fee* assessed pursuant to this subdivision to the state on a
28 quarterly schedule for deposit in a separate account in the
29 California Tire Recycling Management Fund.

30 (d) The department, or its agent authorized pursuant to Section
31 42882, shall be reimbursed for its costs of collection, auditing, and
32 making refunds associated with the California Tire Recycling
33 Management Fund, but not to exceed 3 percent of the total annual
34 revenue deposited in the fund.

35 (e) The California tire fee imposed pursuant to subdivision (b)
36 shall be separately stated by the retail seller on the invoice given
37 to the customer at the time of sale. Any other disposal or
38 transaction fee charged by the retail seller related to the tire
39 purchase shall be identified separately from the California tire fee.

1 (f) Any person or business who knowingly, or with reckless
2 disregard, makes any false statement or representation in any
3 document used to comply with this section is liable for a civil
4 penalty for each violation or, for continuing violations, for each
5 day that the violation continues. Liability under this section may
6 be imposed in a civil action and shall not exceed twenty-five
7 thousand dollars (\$25,000) for each violation.

8 (g) In addition to the civil penalty that may be imposed pursuant
9 to subdivision (f), the department may impose an administrative
10 penalty in an amount not to exceed five thousand dollars (\$5,000)
11 for each violation of a separate provision or, for continuing
12 violations, for each day that the violation continues, on any person
13 who intentionally or negligently violates any permit, rule,
14 regulation, standard, or requirement issued or adopted pursuant to
15 this chapter. The department shall adopt regulations that specify
16 the amount of the administrative penalty and the procedure for
17 imposing an administrative penalty pursuant to this subdivision.

18 (h) For purposes of this section, “new tire” means a pneumatic
19 or solid tire intended for use with onroad or off-road motor
20 vehicles, motorized equipment, construction equipment, or farm
21 equipment that is sold separately from the motorized equipment,
22 or a new tire sold with a new or used motor vehicle, as defined in
23 Section 42803.5, including the spare tire, construction equipment,
24 or farm equipment. “New tire” does not include retreaded, reused,
25 or recycled tires.

26 (i) The California tire fee may not be imposed on any tire sold
27 with, or sold separately for use on, any of the following:

- 28 (1) Any self-propelled wheelchair.
29 (2) Any motorized tricycle or motorized quadricycle, as defined
30 in Section 407 of the Vehicle Code.
31 (3) Any vehicle that is similar to a motorized tricycle or
32 motorized quadricycle and is designed to be operated by a person
33 who, by reason of the person’s physical disability, is otherwise
34 unable to move about as a pedestrian.

35 (j) This section shall become operative on January 1, 2024.